

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tyler Walls	Team: Squad #6	CCRB Case #: 201910528	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 12/09/2019 9:53 AM	Location of Incident: § 87(2)(b)	Precinct: 19	18 Mo. SOL 6/9/2021	EO SOL 1/24/2022	
Date/Time CV Reported Mon, 12/09/2019 10:30 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 12/09/2019 10:30 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Francis Smillie	05835	958080	WARRSEC
2. DT3 John Roufanis	7197	953343	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM John Bicocchi	00986	959491	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.POM Francis Smillie	Abuse: Police Officer Francis Smillie threatened to damage § 87(2)(b)'s property.	§ 87(2)(b)
B.POM Francis Smillie	Abuse: Police Officer Francis Smillie entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
C.DT3 John Roufanis	Abuse: Detective John Roufanis entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
D.POM Francis Smillie	Abuse: Police Officer Francis Smillie searched § 87(2)(b) in Manhattan.	§ 87(2)(b)
E.DT3 John Roufanis	Abuse: Detective John Roufanis searched § 87(2)(b) in Manhattan	§ 87(2)(b)
F.DT3 John Roufanis	Abuse: Detective John Roufanis failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)

Case Summary

On December 9, 2019, § 87(2)(b) filed the following complaint with the CCRB over the phone.

On December 9, 2019, at approximately 9:53 a.m., § 87(2)(b) heard a knock at her residence, § 87(2)(b) in Manhattan. § 87(2)(b) went to her door and saw PO Francis Smillie, PO John Bicocchi, and Det. John Roufanis, from the Manhattan Warrant Squad, standing outside of her door. PO Smillie stated that he had a warrant and told § 87(2)(b) to open the door or he would break it down (**Allegation A: Abuse of Authority** § 87(2)(g)). § 87(2)(b) agreed to let PO Smillie enter if he would write down his name and shield number for her. PO Smillie agreed. PO Smillie and Det. Roufanis entered her apartment (**Allegation B and C: Abuse of Authority** § 87(2)(g)). PO Smillie looked through the various rooms inside the apartment while Det. Roufanis opened the closet door near the entrance and looked inside (**Allegation D and E: Abuse of Authority** § 87(2)(g)). Once the officers finished searching, § 87(2)(b) asked PO Smillie and Det. Roufanis to write down their name and shield. PO Smillie took a business card from PO Bicocchi, put his information on the card, and provided it to § 87(2)(b). Det. Roufanis did not provide a business card to § 87(2)(b) (**Allegation F: Abuse of Authority** § 87(2)(g)). The officers left without further incident.

The investigation obtained video surveillance from the building. No BWC could be obtained because none of the officers were issued BWC at the time of the incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Francis Smillie threatened to damage § 87(2)(b)'s property.

§ 87(2)(b) testified that at approximately 9:53 a.m., PO Smillie, PO Bicocchi, and Det. Roufanis knocked on her door at apartment § 87(2)(b) in Manhattan. PO Smillie introduced himself as the officer in charge and informed her that he had a warrant and was looking for an individual named § 87(2)(b). PO Smillie further added that if § 87(2)(b) did not open the door, he would break it down himself. § 87(2)(b) used her phone to call her mother, § 87(2)(b) and informed her that an officer threatened to break down her door (**BR 01**).

§ 87(2)(b) provided an unsworn phone statement to the CCRB. § 87(2)(b) was on the other line of the phone during that incident. She was informed by § 87(2)(b) that officers threatened to break down her door. § 87(2)(b) did not hear this comment (**BR 02**).

PO Smillie testified that upon arriving § 87(2)(b) Manhattan, he knocked on the door of § 87(2)(b). PO Smillie denied that he informed § 87(2)(b) that he could potentially break down the door (**BR 03, 04, 05**).

PO Bicocchi testified that he did not recall if PO Smillie ever threatened to break down § 87(2)(b)'s door (**BR 06**).

Det. Roufanis testified that PO Smillie did not threaten to break down § 87(2)(b)'s door (**BR 07**).

None of the NYCHA video surveillance cameras captured the interaction between § 87(2)(b) and PO Smillie (**BR 08 – 14**).

§ 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Francis Smillie § 87(2)(b) in Manhattan.

Allegation (C) Abuse of Authority: Detective John Roufanis § 87(2)(b) § 87(2)(b) in Manhattan

Allegation (D) Abuse of Authority: Police Officer Francis Smillie § 87(2)(b)

§ 87(2)(b) in Manhattan.

Allegation (E) Abuse of Authority: Detective John Roufanis § 87(2)(b) § 87(2)(b) in Manhattan.

§ 87(2)(g)

§ 87(2)(b) testified that PO Smillie said he had a search warrant to enter the location. PO Smillie briefly showed § 87(2)(b) the warrant. § 87(2)(b) called § 87(2)(b) who advised her to let the officers search the apartment. § 87(2)(b) told the officers she would only allow PO Smillie to enter and search the residence because she did not feel comfortable with too many men inside. She further added that she wanted him to write down the name and shield number of any officer involved in the search. PO Smillie agreed. PO Smillie and Det. Roufanis entered the apartment while PO Bicocchi waited in the hallway outside of the doorway. PO Smillie searched several different rooms in the apartment. Det. Roufanis opened the closet doors near the entrance and looked inside. Neither officer entered any smaller compartments or drawers inside of the apartment.

As § 87(2)(b) was on the phone with § 87(2)(b) when the incident occurred, she did not observe the entry or search of the apartment.

PO Smillie testified that there was an active bench warrant for an individual named § 87(2)(b). Prior to arriving at the incident location, PO Smillie reviewed a previous arrest report for § 87(2)(b) which provided § 87(2)(b) in Manhattan as her address. He also performed a TLO check, a Z- FINEST search, and a DAS-Lite search which confirmed § 87(2)(b) location as the incident location. PO Smillie performed the searches a few days before the incident. PO Smillie did not recall if any other officers entered the apartment with him. PO Smillie could not recall the specific places he searched in § 87(2)(b)'s apartment but stated that with an arrest warrant he would only search places in which a person could reasonably be found such as rooms and closets.

Det. Roufanis denied entering or searching § 87(2)(b)'s apartment. Det. Roufanis stated that the bench warrant permitted them to check areas of the apartment a person could hide such as rooms, closets, underneath beds, or beneath couches. Det. Roufanis could not recall where PO Smillie searched within the apartment.

During his interview, PO Bicocchi could not recall if Det. Roufanis went inside of the apartment and could not recall any of the areas searched by PO Smillie. PO Bicocchi confirmed that he stayed outside of the apartment throughout the search.

The Department Advocates Office (DAO) confirmed that there was an active bench warrant for § 87(2)(b) during the time of the incident (**BR 15**).

PO Smillie's DD5's show that a Wise Alert and a TLO Check confirmed § 87(2)(b) address § 87(2)(b) in Manhattan. PO Smillie performed these searches on December 4, 2019 (**BR 16**).

A warrant of arrest may be executed at any day and time. In order to effect the arrest, a police officer may enter any residences in which he reasonably believes the defendant to be present. (New York State Criminal Procedure Law Section 120.80) (**BR 18**) A bench warrant must be executed in the same manner of a warrant of arrest, as provided in section 120.80 (New York State Criminal Procedure Law Section. 530.70 2) (**BR 19**).

Prior to obtaining a bench warrant, PO Smillie confirmed that he reviewed a previous arrest report for § 87(2)(b) and performed at least a TLO check and a Wise Alert check, all of which confirmed § 87(2)(b) address § 87(2)(b) in Manhattan. These searches were conducted within a few days of the incident date. The officers announced their reason for their presence at the door and their purpose to enter and search and § 87(2)(b) understood that the officers were executing a warrant. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Abuse of Authority: Detective John Roufanis failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) testified that once the search ended, she asked PO Smillie and Det. Roufanis to write down their names and shield numbers as promised. PO Smillie denied ever agreeing to such terms. Nonetheless, PO Smillie took a business card from PO Bicocchi, wrote his name on it, and handed it to § 87(2)(b). § 87(2)(b) asked Det. Roufanis to write down his name and shield number. PO Smillie replied that Det. Roufanis was not obligated to write down that information since he was not in command of the investigation and did not enter the apartment. The officers left without further incident.

§ 87(2)(b) told § 87(2)(b) to get the information of the officer involved in the search. § 87(2)(b) informed § 87(2)(b) that she received a business card from an officer that wrote his information down on the card.

Det. Roufanis testified that he did not enter § 87(2)(b)'s apartment and did not participate in the search of § 87(2)(b)'s apartment. Det. Roufanis confirmed that he did not provide § 87(2)(b) with a business card because § 87(2)(b) did not request one from him, and PO Smillie already provided § 87(2)(b) with one.

PO Smillie stated that he could not recall if Det. Roufanis provided § 87(2)(b) with a business card. PO Smillie did not recall if Det. Roufanis entered the apartment and did not know if he would have been required to provide a business card in this situation. PO Smillie did not recall if § 87(2)(b) asked Det. Roufanis for a business card.

PO Bicocchi testified that he could not recall if Det. Roufanis provided a business card to § 87(2)(b) and could not recall if she requested one from him. PO Bicocchi could not recall where Det. Roufanis stood in relation to the door but stated that only PO Smillie searched the apartment.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- PO Smillie has been a member-of-service for five years and this is the first CCRB complaint to which he has been a subject.
- Det. Roufanis has been a member-of-service for 8 years and has been a subject in one complaint and one allegation, which was not substantiated. § 87(2)(g)
- PO Bicocchi has been a member-of-service for five years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
- As of April 20, 2020, the NYC Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (**BR 20**).

Squad No.: 6

Investigator: Tyler Walls Inv. Tyler Walls 10/19/2020
Signature Print Title & Name Date

Squad Leader: Jessica Peña IM Jessica Peña 10/27/2020 _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date